IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 346 of 2007

Date of decision 26 .11 .2007

M/s Dilbagh Industries .. Appellant

Versus

The Income Tax Officer, Ward I, Phagwara .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.K.L.Goyal, Advocate for the appellant

M.M.Kumar, J.

The assessee has filed the instant appeal under Section 260A of the Income Tax Act,1961 against the order dated 9.3.2007 (Annexure P.5) passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar in ITA No.225 (ASR) 2005 in respect of assessment year 2000-01. It has been averred that the following substantial question of law would arise for consideration of this Court:

> " Whether on the facts and in the circumstances of the case, the ld. ITAT is justified in upholding the addition made by Assessing Officer in the total income of the assessee , just on the ground that there was some difference in valuation of stock taken on the date of survey made u/s 133 A of the Income Tax

Act, 1961 the valuation of which was made on estimate basis and that too, when an agreed addition has been made on a particular amount" ?

The assesse is a partnership concern engaged in the business of manufacturing of agricultural implements. For the assessment year 2000-01 return was filed declaring a total income of Rs.3,91,677/-. At the time of assessment, the Assessing Officer made an addition of Rs. 1,07,930/- in Trading Account on the ground that at the time of survey on 29.3.2000 there was a calculation mistake by the Revenue in preparing inventory of actual stock as at the time of calculation of the figure of Rs.4,44,308 i.e. alleged difference in stock valuation as per books and stock valuation as per actual stock, the GP rate of 16 % was estimated whereas in the Trading Account such profit is 15.16%. Therefore, difference in stock was not Rs. 4,44,308 but Rs.5,57,933/- and accordingly addition of Rs. 1,07,930/- was made. In the appeal filed before the Commissioner of Income Tax (Appeals), Jalandhar, the challenge was restricted to addition of Rs. 1,07,930/-. This order was affirmed by the Income Tax Appellate Tribunal,Amritsar Bench, Amritsar.

Having heard the learned counsel for the assessee and perusing the records, we are of the considered view that pure findings of fact have been recorded by the authorities below and no interference of this Court in the concurrent findings of fact would be warranted. The additions in the income of the assessee have been made on estimation basis and this Court in exercise of its appellate jurisdiction under Section 260A of the Act would not like to substitute its own opinion as against that of the authorities below. No substantial question of law within the meaning of Section 260A(1) of

the Act would arise for determination of this Court. There is thus no merit in the appeal and the same is accordingly dismissed.

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

26.11.2007
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